

Department of Legislative Services  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 837

(Senator Young)

Education, Health, and Environmental Affairs

Health and Government Operations

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**Health Occupations Boards - Disciplinary Procedures - Prohibition on Stays**

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This bill prohibits a hearing of charges filed by specified health occupations boards from being stayed or challenged by procedural defect alleged to have occurred prior to the filing of charges. The bill also prohibits an order of specified health occupations boards from being stayed pending *judicial* review.

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**Fiscal Summary**

**State Effect:** None. The changes are procedural in nature and do not directly affect governmental finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary/Current Law:** The bill standardizes provisions of law regarding prohibitions on stays for most health occupations boards. Generally, before a board takes disciplinary action, it must give the individual against whom the action is contemplated an opportunity for a hearing. The board must give notice and hold the hearing in accordance with the Administrative Procedure Act. Generally, a person aggrieved by a final decision of a board in a contested case, other than a disciplinary case, may appeal that decision to the board of review and take any further appeal allowed under the Administrative Procedure Act. A person aggrieved by a final disciplinary order of a board may not appeal to the Secretary of Health and Mental Hygiene or the board of review but may take a direct judicial appeal. A description of the bill's impact on each individual board and relevant current law can be found in **Appendix 1**.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1290 (Delegate Frank) - Health and Government Operations.

**Information Source(s):** Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2013  
mc/ljm

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## Appendix 1 – Impact of SB 837/HB 1290 of 2013

<u>Title</u>	<u>Board</u>	<u>Current Law</u>	<u>Prohibits Stays for Procedural Defects</u>	<u>Prohibits Stays Pending Judicial Review</u>
1A	Acupuncture		+	+
2	Audiologists, Hearing Aid Dispensers, and Speech-Language Pathologists	An order of the board may not be stayed pending <i>review</i> .	+	+
3	Chiropractic and Massage Therapy		+	+
4	Dental		+	+
5	Dietetic Practice	An order of the board may not be stayed pending <i>review</i> .	+	+
7	Morticians and Funeral Directors	Bill repeals current provision: if a person notes an appeal from an order of suspension or revocation by the board, the order is stayed.	+	+
8	Nursing		CL (electrologists only)	CL
9	Nursing Home Administrators	A decision by the board to deny, suspend, or revoke a license may not be stayed while judicial review is pending.	+	CL
10	Occupational Therapy		+	+
11	Optometry	Bill repeals current provision: if an optometrist seeks judicial review of an order of suspension or revocation by the board, the order must be stayed until the optometrist's judicial remedies are exhausted.	+	+

<u>Title</u>	<u>Board</u>	<u>Current Law</u>	<b>Prohibits Stays for Procedural Defects</b>	<b>Prohibits Stays Pending <i>Judicial</i> Review</b>
12	Pharmacy	Regarding pharmacy permits, if an appeal is taken, the board <i>may</i> stay its order of suspension or revocation pending the decision of the court.	CL	
13	Physical Therapy		+	+
14	Physicians	An order of the board may not be stayed pending <i>review</i> .	CL	CL
16	Podiatric		+	+
17	Professional Counselors and Therapists		+	CL
18	Psychologists	A decision of the board to deny a license, enforce a suspension of a license for more than one year, or revoke a license may not be stayed pending judicial review.	CL	CL
19	Social Work		+	+
20	Residential Child Care Program Professionals		+	+
21	Environmental Health Specialists	None.		

Note: + = bill imposes prohibition, CL = prohibition under current law

Source: Laws of Maryland, Department of Legislative Services